

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6537

BILL NUMBER: SB 234

NOTE PREPARED: Dec 20, 2012

BILL AMENDED:

SUBJECT: Secretary of State Filings and Recordings.

FIRST AUTHOR: Sen. Wyss

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that the Secretary of State (SOS) may refuse to accept certain filings or recordings. The bill provides that if a secured party or remitter demonstrates that the SOS should accept a filing or recording that was rejected, the filing officer will file a notice of correction that states the effective date and time of the filing. It provides that the SOS does not have a duty to inspect, evaluate, or investigate a document that is presented for filing or recording.

This bill provides that certain individuals may file a motion for judicial review of a financing statement to determine if the document is fraudulent. It allows a court to order certain actions if a financing statement is fraudulent.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Secretary of State (SOS):* The SOS will incur additional expenses to fulfill the provisions in the bill. The bill requires the SOS to provide a process for a secured party or remitter to protest a rejection of a filing and, if necessary, implement the corrective actions described in the bill. The bill also requires the SOS to develop and publish a form on their website to assist an individual in filing a motion for judicial review of a financing statement. The SOS should have sufficient resources and staff to implement this bill.

Explanation of State Revenues: *Court Fee Revenue:* If a person believes that a financing statement is fraudulent, the person may file a motion for judicial review. The court fees collected from such actions may increase revenue to the state General Fund. A civil costs fee of \$100 would be assessed when a civil case is

filed or \$120 would be assessed when a criminal case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment Fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$120 criminal cost fee or the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Persons filing a civil case are also be required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Secretary of State.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

Fiscal Analyst: Heath Holloway, 317-232-9867.